

CASTEL

07 CV 6108

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FASHION WORLD, LTD.,

07-CV-\_\_\_\_\_

Plaintiff,

-against-

JEFF GREEN, ZIARI INTERNATIONAL, LTD.,  
US MERCHANTS FINANCIAL GROUP, INC.,  
THE MERCHANT OF TENNIS, INC., LISA  
NUNZIATA and METAMORPHOSIS, INC.,

Defendants.  
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**ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION  
AND FOR EXPEDITED DISCOVERY**

Upon the Declaration of Bruno Condi, sworn to the 22nd day of June, 2007, and upon all the pleadings and the exhibits annexed thereto, and for good cause, it is hereby

**ORDERED**, that the above-named defendants, JEFF GREEN, ZIARI INTERNATIONAL, LTD., US MERCHANTS FINANCIAL GROUP, INC., THE MERCHANT OF TENNIS, INC., LISA NUNZIATA and METAMORPHOSIS, INC., show ✓ cause before a motion term of the Court, Room 12C, United States Courthouse, 500 ✓ Pearl Street, in the City, County and State of New York, on July 6, 2007, at ✓ 3:15 o'clock in the after noon thereof, or as soon thereafter as counsel may be heard, why an Order should not be issued pursuant to Rule 65 of the Federal Rules of Civil Procedure, preliminarily enjoining the defendants JEFF, GREEN, ZIARI INTERNATIONAL, LTD., US MERCHANTS FINANCIAL GROUP, INC., THE MERCHANT OF TENNIS, INC., LISA NUNZIATA and METAMORPHOSIS, INC., and

their shareholders, directors, officers, employees, agents, servants, parents, affiliates, insiders attorneys, confederates, and all other persons acting for, with, by, through or under them, during the pendency of this action, and permanently thereafter, from using in any manner the plaintiff's Mark, "F by Fortuna Valentino" ("Mark"), alone or in combination with any word, symbol, or words which so resemble said trademark as to be likely to cause confusion, deception, or mistake on or in connection with the advertising, offering for sale, or sale of any product not plaintiff's, or not authorized or licensed by plaintiff to be sold in connection with plaintiff's Mark, from passing off, inducing, or enabling others to sell or pass off any product as and for products produced by plaintiff, not plaintiff's, or not produced under the control and supervision of plaintiff and approved, licensed and authorized by plaintiff for sale under plaintiff's Mark, from committing any acts calculated to cause purchasers to believe that defendants' products are those sold under the control and supervision of plaintiff, or sponsored or approved by, or licensed by, or connected with, or guaranteed by, or produced under the control and supervision of plaintiff, from otherwise competing unfairly with plaintiff in any manner, and from shipping, delivering, distributing, returning or otherwise disposing of, in any manner, products or inventory not manufactured by or for plaintiff, nor authorized nor licensed by plaintiff to be sold or offered for sale, and which bear the Mark,

~~ORDERED~~ as to directing defendants to forthwith deliver up to plaintiff any and all products, guarantees, circulars, price lists, labels, signs, prints, packages, wrappers, pouches, receptacles, advertising matter, promotional, and other materials in the possession of defendants or under their control bearing any of the Mark, or each of them alone or in combination with any other words, or used in connection with the

importation, distribution, advertising, offering for sale or sale of products not plaintiff's, or not made under the authorization and control of plaintiff,

**ORDERED** as to directing defendants to deliver to plaintiff a complete list of customers and other entities to which they have distributed and/or sold products bearing the Mark, or products not authorized or licensed by plaintiff to be sold in connection with the Mark,

**ORDERED** as to directing defendants, within thirty (30) days after service of an Order or Judgment with notice of entry thereof upon it, to file with the Court and serve upon plaintiff a written report under oath setting forth in detail the manner in which defendants have complied with the first ORDER (Second Paragraph, *supra*), and to comply with any and all other proper notices and demands for disclosure,

**ORDERED** as to directing defendants to account for sales and profits realized by them by reason of defendants' unlawful acts herein alleged, to pay over the royalties due, and that the amount of damages for defendants' unlawful distribution, sale and offers to sell Licensed Products to entities other than the authorized channels of distribution be increased by a sum not exceeding three times the amount thereof as provided by law,

*(support of the preliminary injunction)*  
**ORDERED** that discovery in this matter be expedited; and it is further, *PKC*

**ORDERED** that service of this Order and annexed Declaration, the Summons and Complaint, upon JEFF GREEN and LISA NUNZIATA, and the owners and/or operators of US MERCHANTS FINANCIAL GROUP, INC., THE MERCHANT OF TENNIS, INC., and METAMORPHOSIS, INC., and related stores and affiliates *via* delivery by overnight delivery service at their last known addresses and/or upon their *PKC*

*by a means permitted by Rule 4, Fed. R. Civ. P., and*

virtual

(JUNE 29)


counsel, if known, on or before 2 o'clock in the AFTER noon, JULY 1, 2007, shall be deemed good and sufficient service thereof. Opposition papers are to be served upon

Plaintiff's counsel by 3pm July 5 VIA FAX OR BY HAND and ~~Reply by Plaintiff to be served by~~

*This appears to be a breach of a licensing agreement if plaintiff's allegations are true. In that context, the plaintiff's failure to give notice of this application is inexplicable. The Conditioner is dated back on June 22 yet plaintiff has waited until the eve of the Independence Day celebration to ~~submit~~ make its application.*

DATED: \_\_\_\_\_

ENTER:

  
U.S.D.J.  
6-28-07  
4:14 p.m.

(- No prior Relief for the matter in this action has been sought in this or any other Court.

(- ~~Security Bond~~ in the amount of \$ \_\_\_\_\_ to be posted by the Plaintiff.